IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 13968 of 2007(K)

PETITIONER:

K.HARIKUMAR, AGED 32 YEARS,
S/O.KRISHNA PANICKER, KARIKKINTHIALA PUTHENVEETTIL HOUSE, VEERANAKKAVU VILLAGE, NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY (HOME),
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SUB INSPECTOR OF POLICE,
SREEKARYAM POLICE STATION, THIRUVANANTHAPURAM.

3. THE CIRCLE INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION,THIRUVANANTHAPURAM.

4. THE ASST. COMMISSIONER OF POLICE,
SANKUMUGHAM, THIRUVANANTHAPURAM.

5. THE COMMISSIONER OF POLICE,
THIRUVANANTHAPURAM CITY, THIRUVANANTHAPURAM.

6. HARIKUMAR, KAYYANIKULATHU HOUSE,
PODIKONAM, SREEKARYAM, THIRUVANANTHAPURAM DISTRICT

7. SURESH, S/O. BHASI,
PUTHUVAL PUTEHNVEEDU, POUDIKONAM, SREEKARYAM,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: PHOTOCOPY OF THE TODDY SHOP LICENCE NO.113/2007-08/TVPM IN RESPECTE OF TODDY SHOP NO.5/2007-07 ISSUED BY ASST. EXCISE COMMISSIOENR, THIRUVANANTHAPURAM ON 18.4.2007.

EXT.P2: PHOTOCOPY OF PETITION DATED 24.4.2007 SUBMITTED BEFORE 3RD RESPONDENT.

EXT.P3: PHOTOCPY OF PETITION DATED 25.4.2007 SUBMITTED BEFORE 2ND RESPONDENT WITH COPIES TO RESPONDENTS 3 TO 5.

RESPONDENT'S EXHIBITS:

EXT.R6(A): TRUE COPY OF PHOTORAPH OF THE TODDY SHOP AND THE LIBRARY.

EXT.R6(B): TRUE COPY OF THE COMPLAINT FIELD BEFORE THE DISTRICT COLLECTOR WHO IS ALSO THE DISTRICT MAGISTRATE ON 24.4.2007.

/ TURE COPY /

P.S. TO JUDGE.

P.R. RAMAN & K. HEMA, JJ.

W.P.(C).No.13968 of 2007

Dated this the 11th day of June, 2007.

JUDGMENT

Raman, J.

The petitioner is a licensee of toddy shop No.5 in Kazhakoottam Excise Range. He has been issued with Ext.P1 licence. His allegation is that respondents 6 and 7 and their supporters are causing physical obstruction and forced the petitioner to close the shop. It is alleged that, in spite of the repeated request made to the police, necessary police help is not afforded to the petitioner. Hence, this writ petition.

2. Respondents 6 and 7 filed a counter-affidavit and submitted that Ext.P1 licensed shop is situated near a colony where there are 100 residents and that there will be disturbance to public peace in case the toddy shop is allowed to continue and they have already approached the District Collector by filing a petition Ext.R6(b). Learned Government Pleader would submit that, on receipt of the complaint, parties were called and it was agreed that the petitioner would shift his shop to another place. But, this is seriously denied by learned counsel appearing for the petitioner. In the facts and

circumstances of the case, after hearing the parties, we dispose of the writ petition as follows:

3. So long as Ext.P1 licence is not cancelled by any competent authority and it is in full force and there is no prohibitory orders by any statutory authority or by a court of law, there cannot be any physical obstruction for the functioning of the shop in the licensed premises strictly in accordance with the conditions of licence. In case there is any physical obstruction, necessarily, police will have to give protection to the petitioner to run his business in accordance with Ext.P1 licence. Since the party respondents have preferred a complaint before the District Collector, Trivandrum, the same shall be disposed of by the District Collector, Trivandrum in accordance with law after hearing both parties.

4. Copy of this order shall be produced before the District Collector, Trivandrum along with copy of petition and counter-affidavit filed by the 6th respondent for information and compliance. There will be a further direction to the police not to interfere with any peaceful agitation or 'dharna' by respondents 6 and 7 or their supporters so long as such dharna or peaceful agitation is 50 metres

away from the petitioner's shop excluding residential building, if any in between them.

Writ Petition is disposed of as above.

P.R.RAMAN, JUDGE.

K. HEMA, JUDGE.

Krs.